

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

*Lawrence Carter 98B0249* Plaintiff(s) )  
vs. )  
*Bascero, Bezdio, Deptlo,* Defendant(s) )  
*Brockley, North, Anderson, Chapman, Collins*

INMATE  
CIVIL RIGHTS  
COMPLAINT PURSUANT  
PURSUANT TO  
42 U.S.C. § 1983

Case No. 9:12 CV 1746

U.S. DEPT.  
FEB 1  
NOV 27 2012  
AT O'CLOCK  
Lawrence K. Baerman, Clerk - Syracuse

Plaintiff(s) demand(s) a trial by:  JURY  COURT (Select only one).

Plaintiff(s) in the above-captioned action, allege(s) as follows:

#### JURISDICTION

- This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4) and 2201.

#### PARTIES

- Plaintiff: Lawrence Carter 98B0249 Ad Se

Address: FIVE Points Correctional Facility  
STATE Route 96, P.O. Box 119  
Romulus, New York 14541

Additional Plaintiffs may be added on a separate sheet of paper.

- a. Defendant: Bezdio

Official Position: Ex-SUPERINTENDENT

Address: Great Meadow Correctional Facility  
P.O. Box 51  
Cortland, New York 13821-0051

b. Defendant: C.O M Beekley  
Official Position: Corrections Officer  
Address: GREAT Meadow Corr. Facility  
P.O. Box 51  
Comstock New York 12821-0051

SEE  
ATTACHED

c. Defendant: RACETTE  
Official Position: SUPERINTENDENT  
Address: GREAT Meadow Corr. Facility  
P.O. Box 51  
Comstock New York 12821-0051

Additional Defendants may be added on a separate sheet of paper.

4. PLACE OF PRESENT CONFINEMENT

a. Is there a prisoner grievance procedure at this facility?

Yes       No

b. If your answer to 4a is YES, did you present the facts relating to your complaint in this grievance program?

Yes       No

If your answer to 4b is YES,

(i) What steps did you take? FILED A GRIEVANCE ON 11-14-11

Appealed to C.O.P.C. Received Final Decision

Scot C.O.P.C. No Answer Scot Racette.

(ii) What was the final result of your grievance? DENIED

D. K. Anderson

CORRECTIONS OFFICER

Great Meadow Corr. Facility

P.O. Box 51

Comstock, New York 12821-0051

G. T. Depalo

REGISTERED NURSE

Great Meadow Corr. Facility

P.O. Box 51

Comstock, New York 12821-0051

E. C.S. Collins

CORRECTIONS SERGEANT

Great Meadow Corr. Facility

P.O. Box 51

Comstock, New York 12821-0051

H. A. Charon

CORRECTIONS OFFICER

Great Meadow Corr. Facility

P.O. Box 51

Comstock, New York 12821-0051

F. B. North

CORRECTIONS OFFICER

Great Meadow Correctional  
Facility

Comstock, New York 12821-0051

If your answer to 4b is NO - why did you choose to not present the facts relating to your complaint in the prison's grievance program? \_\_\_\_\_

- c. If there is no grievance procedure in your institution, did you complain to prison authorities about the facts alleged in your complaint?

Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to 4c is YES,

- (i) What steps did you take? Spoke personally to Superintendent ENDENT RACETTE, told him of the assault and my injuries in Dec. 1, Nov. 16 & 23, 2011

- (ii) What was the final result regarding your complaint? Absolutely ignored and my personal property was removed from my cell.

If your answer to 4c is NO - why did you choose to not complain about the facts relating to your complaint in such prison? \_\_\_\_\_

## 5. PREVIOUS LAWSUITS

- a. Have you ever filed any other lawsuits in any state and federal court relating to your imprisonment?

Yes \_\_\_\_\_ No \_\_\_\_\_

- b. If your answer to 5a is YES you must describe any and all lawsuits, currently pending or closed, in the space provided below.

For EACH lawsuit, provide the following information:

- i. Parties to previous lawsuit:

Plaintiff(s): LANCE COOPER 9180233 (ATTICA)

Defendant(s): CARRIECO, HARONSKI, HAGGARD SGT. BRECKON

- ii. Court (if federal court, name District; if state court, name County):

WESTERN DISTRICT OF NEW YORK

- iii. Docket number: DON'T REMEMBER

- iv. Name of Judge to whom case was assigned: DON'T REMEMBER

- v. Disposition (dismissed? on appeal? currently pending?): DISMISSED

- vi. Approximate date of filing prior lawsuit: 1993

- vii. Approximate date of disposition: 1994-1995

6. FACTS

Set forth the facts of your case which substantiate your claim of violation of your civil and/or Constitutional rights. List the events in the order they happened, naming defendants involved, dates and places.

**Note: You must include allegations of wrongful conduct as to EACH and EVERY defendant in your complaint. (You may use additional sheets as necessary).**

On October 22, 2011 in B-block stairwell I was physically assaulted by Berkley, North, Anderson, C.S. Collins and Anderson, for more than 40 minutes. I sustained 4 broken ribs, a collapsed lung, multiple stitches, wide-spread contusions, multiple lacerations, eight days hospitalization. Superintendent Berijo and Racette through their failure to act, methods of shielding staff assault through administrative manipulation and misuse of power and failure to employ only mechanical means of supervision in order to curb and control the behaviors of the staff, have created and allowed to continue an unsafe and dangerous prison environment and as a direct result plaintiff was egregiously assaulted by staff from 5:10 pm to 5:58 pm.

7.

### CAUSES OF ACTION

Note: You must clearly state each cause of action you assert in this lawsuit.

#### FIRST CAUSE OF ACTION

Personal Assult, Excessive Force, Serious physical  
injury. Constitutional Eighth Amendment Violation by  
B. North, M. Beckley, Chapman, Anderson, C.S. Collins

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#### SECOND CAUSE OF ACTION

Failure to protect, Deliberate Indifference, Supervisory  
Inability Constitutional Eighth and Fourteenth Amend-  
ment Violations by Superintendent Racette and Bezd  
and Sergeant C.S. Collins

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#### THIRD CAUSE OF ACTION

Medical Malpractice, Deliberate Indifference  
Constitutional Eighth and Fourteenth Amendment  
Violation by T. Doppo.

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8. PRAYER FOR RELIEF

WHEREFORE, plaintiff(s) request(s) that this Court grant the following relief:

Injunctive: That George Menklow be ordered to place security cameras all throughout the prison. \$120,000.00 from each defendant as punitive damages. \$30,000 punitive damages from Bassette, Bezio, Chintron, C.S. Collins, H. Brookley, B. North, K. Anderson

I declare under penalty of perjury that the foregoing is true and correct.

DATED: Sept. 19, 2012

Laura Carter 98832249 AD SE

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Signature of Plaintiff(s)  
(all Plaintiffs must sign)

02/2010

ii. Court (if federal court, name District; if state court, name County):

WESTERN DISTRICT OF NEW YORK

iii. Docket number: Don't Remember

iv. Name of Judge to whom case was assigned: Don't Remember

v. Disposition (dismissed? on appeal? currently pending?): Dismissed

vi. Approximate date of filing prior lawsuit: 1992

vii. Approximate date of disposition: 1994-95

#### FACTS

6.

Set forth the facts of your case which substantiate your claim of violation of your civil and/or Constitutional rights. List the events in the order they happened, naming defendants involved, dates and places.

Note: You must include allegations of wrongful conduct as to EACH and EVERY defendant in your complaint. (You may use additional sheets as necessary).

On October 22, 2011 in B-Block Stairwell I was physically assaulted by Beleckley, North, Anderson C.S Collins and Chappell, for more than 40 minutes I sustained 4 broken ribs, a collapsed left lung 3 stitches in my right hand and 3 stitches on the right side of my head. I was hospitalized in Albany Medical Center for 8 days with a chest tube placement, did not have to be placed tracheal. Substantial pain permanent injury, mental stress, subsequent weight loss of 31 lbs. loss of mobility for months. All force being deliberate and malicious for the sole purpose of injuring and disabling plaintiff

7. CAUSES OF ACTION

Note: You must clearly state each cause of action you assert in this lawsuit.

FIRST CAUSE OF ACTION

PERSONAL ASSAULT. USE OF EXCESSIVE FORCE  
VIOLATION OF CONSTITUTIONAL EIGHTH AMENDMENT  
by North, Beasley, Anderson, C.S. Collins and  
C. Harren.

SECOND CAUSE OF ACTION

Failure to protect. (Deliberate Indifference)  
Failure to investigate. Supervisory liability  
Failure to place Mechanical supervision due to defiance.  
Violation of Constitutional 8TH AND 14TH AMENDMENT  
by Superintendent Beccato; Bezzio and C.S. Collins

THIRD CAUSE OF ACTION

Medical Malpractice. Creation of false and misleading  
Medical Reports minimizing plaintiffs injuries for the  
sole purpose of shielding defendants in the First Cause.  
or liability concerning their use of excessive force).  
Violation of Constitutional Amendment 14 due process  
By T. Depolo

8. PRAYER FOR RELIEF

WHEREFORE, plaintiff(s) request(s) that this Court grant the following relief:

HJUNCTIVE: THAT GeorT Headow be ordered to place Secuerl  
concess in all the staveworks; \$120,000 GeorT each defendant  
as punitive damages. Compensatory damages in the  
amount of \$30,000 GeorT Bacette, North, Berkley, Andeson  
C.S. Collins, Chareon. DEPAID

I declare under penalty of perjury that the foregoing is true and correct.

DATED: Sept. 19, 2012



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Signature of Plaintiff(s)  
(all Plaintiffs must sign)

02/2010

United States District Court  
Northern District New York

Lance Carter 9880249

Plaintiff Pro Se

-Against-

Corrections Officers, Beckley  
B. North, K. Anderson, A. Chareon.  
Sergeant C.S. Collins. Superintendent  
Racette and Barro. All in their individual capacities

—CV—

Civil Complaint

- On October 22, 2011 I was being escorted to the infirmary by M. Beckley. Upon returning to B-block and at the arrival to the second floor landing, M. Beckley struck me from behind with his baton connecting on the right side of my head. This blow propelled me past the entrance of 3-company. Plaintiff turned to fight back and was immediately grabbed from behind by B. North. North slammed my face into the wall and punched me in the face several times. North held me in place while M. Beckley kicked

2. Plaintiff in the ribs as B. North held him in place until Plaintiff passed out. Both defendants continued to beat Plaintiff by kicking and stomping him. Plaintiff came too a second time still being beaten by defendants who were yelling "STOP RESISTING LASTER". Plaintiff passed out again. When plaintiff came too again he was lying in between the two stair cases on the first floor uncuffed. C.S. Collins, Supervisor, K. Anderson and A. Chareon, Correca Man, were all there with Beckley and North.

3. There is no record as to when the Correca was present and turned on or when Chareon showed up or what Chareon saw when he got there. Chareon did not write a report. All that is known is that he showed up on the first floor not the second where the incident began. As North's report indicates, Plaintiff was left on the second floor landing and his report did not mention anything about kicking Anderson because Anderson was never nor ever responded to the second floor.

4. K. Anderson is hereby accused by the plaintiff of using excessive force upon plaintiff contributing to and causing the plaintiff's multiple rib fracture, wadospeed contusions and multiple lacerations a punctured and collapsed lung and stitches by repeated kicking and stomping the plaintiff with booted feet in the chest and head, in violation of the plaintiff's 8th Amendment to the U.S. Constitution outside the scope of his official duties, and in his individual and personal capacity.
5. M. Brockley is hereby accused by the plaintiff of using excessive and brutal force upon the plaintiff causing multiple rib fractures and punctured lung by repeatedly kicking and stomping with tremendous force plaintiff's chest and head, causing plaintiff to believe wadospeed contusions and multiple lacerations and stitches in violation of plaintiff's 8th Amendment to the U.S. Constitution outside the scope of his official duties, and in his individual capacity.

6. B. North is hereby accused by the plaintiff of using excessive force upon the plaintiff and causing plaintiff's Multiple Rib Fracture, punctured lung that collapsed, causing and contributing along with H. Brockley, K. Anderson, C.S. Collins and A. Chacean to the wide spread contusions, multiple lacerations that required 6 stitches and hospitalization, by slamming plaintiff's face and head into the wall, repeatedly punching plaintiff in the face, repeatedly kicking and dropping plaintiff in the chest and head in violation of plaintiff's 8th Amendment to the Constitution of the United States. Having done all this outside the scope of his duties. This being done in his individual and personal capacity.
7. T. Depalo is hereby accused by the plaintiff of Medical Malpractice in not he knowing and willingly with intelligent thought file false Medical Reports concerning the extent of plaintiff's injuries and condition in order to help shield Anderson, Brockley, North, Collins and Chacean from liability, violating plaintiff's Bill of Rights by supply false information deliberately indifferent to the medical well being of plaintiff.

8. DePalo being Deliberately Indifferent to plaintiff's potential inability to obtain future Medical Assistance stemming from the true nature of his injuries, precluding the plaintiff assisting in his own Medical treatment in violation of the Bill of Rights and plaintiff's 8th Amendment to the U.S. Constitution, doing so outside the scope of his professional duties. This also being done in his individual capacity.
9. Superintendent Racette, whom was the Superintendent on and after October 22, 2011 is hereby accused by the plaintiff of deliberate indifference, failure to protect, supervisory liability. Racette knew or should have known that his failure to place Mechanical Supervision in the stairwells of A, B, C, D, + E blocks, infringed the constitutional rights of the plaintiff to reasonable safety. Racette knew of the serious security problems surrounding official assault on inmates through official reports, inmate grievances, internal investigations from outside sources, inmates complaints and lawsuits in such amounts and so many different inmates in a years time that it would be impossible for such basic security concerns having escaped his knowledge.

10. On April 15, 2011 Gary Buckett 10A2339 testified against officers of Cortstock after officers severely beat inmates in the property room. That same year inmate G. Carrion 10A3517 was severely beaten by Cortstock officers in relation to that hearing. In 2010 an outside investigation was conducted into the deaths of eight inmates. Inmate P. DiBlasio in August 2009 sustained a busted head which required 15 stitches. Inmate Scott Pearce 93A8913 was physically assaulted in Cortstock and thrown down a flight of stairs in 2007 breaking his collar bone and lost teeth.
11. Directly related to staff assault was the lack of mechanical supervision and the lack of the most elementary procedures to minimize the likelihood of staff assault up inmates. Superintendent Frerette had every obligation to implement those procedures through his authority. Various indices, when considered in combination should make it readily discernable to any decent administrator that staff assault is occurring so regularly that extra security measures should be taken to ensure that said conduct by staff discontinues.

12. Racette's failure to promulgate and adhere to the most rudimentary due process procedures after having full and constructive knowledge of staff assault constitutes deliberate indifference to inmate safety and failure to protect. No process or procedures were utilized by Berio, Racette, or any other Superintendent ent before them for 10 years, to ensure full and fair methods for investigations of such staff assault. Staff were fully shielded from liability by Racette and Berio and through administrative manipulation of all other executive staff authority positions.
13. This created an atmosphere where assaultive staff would continue to be hostile and assaultive toward inmates and never run the risk of detection. This is the exact prison environment created by Superintendents Berio and Racette that allowed Beckley, Noem, Anderson, C.S. Collins, A. Charron to assault me for 40 plus minutes without detection. The expression of violence and hostility by the staff of Great Meadow was so piercing that it instilled fear into any who would make a stand against their violence. They would certainly have second thoughts about doing so.

14. As a direct result of Superintendent's BEVIO AND RACETE'S deliberate indifference towards the safety of inmates and their failure to implement any deterrence procedures to curb and control the behaviors of the Great Meadow Staff assault against inmates, plaintiff hence Carter was assaulted by Great Meadow staff, sustained serious injury requiring eight days hospitalization. Plaintiff was viciously assaulted from 5:10 pm to 5:58 pm by 5 Great Meadow Correctional staff. Superintendent BEVIO and RACETE both refused to seek assistance from the outside. They both were willing to turn a blind eye at the multitude of injured inmates past and present.
15. They both ignored the multitude of inmate grievance complaints and lawsuits and defied the extreme need for the placement of security cameras all throughout the persons environment. Both superintendents ignored Criminal Justice Remedies to which they had access and all this neglect served to nurture a dangerous and unsafe environment solely for the inmates.

16. Minimal force and body holds are not going to cause multiple rib fracture, collapsed lung, wide spread contusions and multiple lacerations requiring stitches. But it is clear that plaintiff did sustain such injuries. What is not clear is how plaintiff sustained such injuries that indicate the condition of being beaten for a sustained amount of time as a timeframe of from 5:10 pm to 5:58 pm would indicate.
17. While on the first floor holding plaintiff was still being stampeded and kicked by Beckley and Noe with the assistance of K. Anderson and C.S. Collins and Lincear. According to K. Anderson's report it was there on the first floor that plaintiff was restrained with her help and plaintiff allegedly kicked Anderson in the face area and subsequently lifted all while C.S. Collins and Chapman was there.

18. Garrison, Collins and Anderson was there when North put the handcuffs on while on the second floor landing off of B-3 where the incident according to North's Report, ended with him applying the cuffs to plaintiff. So if according to the reports all defendants responded at approximately 5:10 pm then Brockley's and North's Report should have mentioned that there were several officers present.
19. Instead North's Report stated "another officer assisted." Obviously that officer was occupied with my hands not feet and North's Report makes no mention of plaintiff kicking that officer, so considering these facts it is safe to conclude that the "other officer" was not K. Anderson. So Anderson was 30 feet away but never responded to the second floor? So if plaintiff was actually cuffed soon after he allegedly attacked Brockley ("upon the entrance to B-3 Company"), as his Report states, how is it that K. Anderson witnessed the cuffs being applied to plaintiff?

20. According to Anderson's Report it was upon her arrival "ON" B-3 THAT SHE RESPONDED BUT GAVE NO TIME. "ON B-3" INDICATES SHE RESPONDED TO THE SECOND FLOOR ON WHICH SHE NEVER ARRIVED. "B-3 STAIR-WELL WOULD INDICATE EITHER THE FIRST OR SECOND FLOOR. SO WITHOUT HER BEING SPECIFIC THERE IS NO WAY OF ANYONE KNOWING WHERE SHE RESPONDED. IN MR ANDERSON'S DISCIPLINARY REPORT SHE SAID SHE RESPONDED APPROXIMATELY 5:10PM
21. C.S. Collins in his Report stated THAT HE RESPONDED APPROXIMATELY 5:10PM. HIS ENTIRE REPORT INDICATES THAT HE WAS NOT PRESENT DURING ANY OF THE ASSAULT ON ME BY ANDERSON, NORTH, BROOKLEY AND CHAPRON BY STATING IN HIS REPORT TO SUPERINTENDENT RACETTE, THAT HIS ENTIRE INCIDENT WAS "Replayed" TO HIM, GIVING THE IMPRESSION THAT HE WAS NOT THERE UNTIL PLAINTIFF WAS RESTRAINED. IN OTHER WORDS C.S. COLLINS WAS NOT THERE UNTIL AFTER I WAS ASSAULTED. THE INCIDENT, ACCORDING TO ALL REPORTS, TOOK PLACE AT APPROXIMATELY 5:10PM. (LAW IN AD + PROXIMUS, NEAREST). PLAINTIFF ARRIVED AT THE INFIRMARY AT 5:58PM.

So it is clear that C.S. Collins was here in B-3 STAIRWELL AT SOME POINT SOON AFTER 5:10pm.

22. C.S. Collins did NOT SAY WHERE) specifically he responded in B-3 STAIRWELL. He Responded Approximately 5:10 pm. THE SAME TIME plaintiff Allegedly ATTACKED Beckley upon ENTERING B-3 COMPANY ON THE SECOND FLOOR AND THE SAME TIME B. North Responded and Arrested plaintiff from behind and SLAMMED plaintiff's FACE into A WALL AND Subsequently CUTTED on THAT SECOND FLOOR. So plaintiff WAS RESTRAINED while on THE SECOND FLOOR.
23. K. Anderson, A. Gleeson Nor did C.S. Collins Respond to THE SECOND FLOOR. No Report STATED THAT AT ANY TIME I Moved to THE FIRST FLOOR. So if THE INCIDENT OCCURRED ON THE SECOND FLOOR AND plaintiff WAS RESTRAINED and CUTTED on THE SECOND FLOOR by B. North and M. Beckley How was Anderson involved with B. North RESTRAINING THE plaintiff WHEN SHE NEVER RESPONDED to THE SECOND FLOOR Nor did North's Report state that plaintiff KICKED THE "OTHER" OFFICER IN THE FOREHEAD NOR WAS IT REPORTED THAT THAT "OTHER" OFFICER WAS ~~NOT~~ PREOCCUPIED WITH ANYTHING OTHER THAN THE plaintiff's hands.

24. C.S. Collins did Not Respond At 5:20pm he did Not Respond to the Interrogatory. C.S. At 5:40pm, C.S. Collins said 5:10pm And he Claims Not to know anything but what was "Relayed" to him from involved staff about the incident but he responded at the same time all other staff reported that they responded but to avoid any liability C.S. Collins indicates in his Report that he was not present and therefore had to be told what went on by other staff.
25. After the second or third the plaintiff passed out and came too he was on the first floor lying between the adjacent stairs leading up to 3rd Company in B-block. C.S. Collins was there along with A. MacLean and K. Anderson, B. Naeth and H. Buckley and all including C.S. Collins were kicking the plaintiff about the legs, chest, genitals and head. Plaintiff does not know when C.S. Collins arrived but like he reported he was there at approximately 5:10pm. Plaintiff does not know how long he was on the second floor being beaten nor does plaintiff remember ever having moved to the first floor.

26. It is clear that plaintiff received multiple rib fractures widespread lacerations and contusions over his face, head and hand, six stitches a punctured and collapsed left lung and 8 days hospitalization. What is also clear is that such injuries didn't come from minimal force or any kind of simple body holds, as reported and since no one knows who caused them and all the defendants deny that any one of them caused plaintiff's injuries as if they magically appeared after the fact, all defendants are and should be held liable for depriving the plaintiff of his constitutional rights while acting under color of state law, beyond the scope of their duties and in their individual personal capacities.

27. Unless all the defendants, in light of all the lies and contradiction apparent from their reports, can logically account for a full 48 minutes from 5:10 pm to 5:58 pm., can reasonably explain plaintiff's whereabouts in that time and how plaintiff was injured. Then none of the defendants have any kind of immunity from this proceeding.

28. Plaintiff has no idea when A. Charcon Arrived at the scene of the incident Charcon did not write a report or even co-sign his concurrence on a report made by another as Directive 4932 affirmatively requires officers to do. Since Charcon has failed to follow his own rules and regulations plaintiff should not be obligated to explain away exactly in what capacity Charcon was present. Charcon was there and when plaintiff came to at that time on the first floor he was being pummeled by many booted feet.
29. Being on the floor surrounded by five officers and being dazed, confused and disoriented from the first beating by North and Brockley, not being able to tell this court how plaintiff got from the second floor to the first floor should tell this court that plaintiff is not able to say for sure in what capacity Charcon played in my assault. Officer Charcon should be made to answer to and explain away what part he played only after discovery since he left no trail to track his movements and explain his behavior, should he be dismissed if such action is warranted concerning him.

30. Was plaintiff restrained and cuffed on the second floor as soon thereafter plaintiff allegedly attacked Brockley "upon the entrance to B-3" As Brockley reported or did plaintiff get restrained and cuffed on the first floor in the presence of C.S. Collins, Chareon and Anderson soon after plaintiff kicked Anderson?
31. Plaintiff got to the infirmary at 5:58 pm and was admitted for 5 days. Plaintiff was then moved to the outside hospital after it was discovered that plaintiff had multiple rib fractures and a collapsed left lung, and was admitted to the outside hospital for 8 days.
32. All of plaintiff's injuries derived from brutal/excessive and substantial force in violation of the 8th Amendment to the Constitution. Plaintiff experienced substantial pain before during and after the hospitalization and for 3 months thereafter experienced little to no mobility.

33. All force used by C.S. Collins, K. Anderson, B. Norrell, M. Brockley, A. Chaceon was applied maliciously with the sole intent and purpose of harassing and disabling plaintiff.
34. Upon information and belief, Officer Chaceon is hereby being accused by the plaintiff of using excessive force upon plaintiff in violation of the plaintiff's 8<sup>th</sup> Amendment to the U.S. Constitution.
35. Sergeant C.S. Collins is hereby accused of supervisory liability "Failed to protect the plaintiff in that plaintiff was attacked in front of Collins but Collins did nothing to stop or prevent it. Making false reports to cover up the fact that he knowingly let injurious harm come to plaintiff and did nothing to prevent it. Insubordination and the use of excessive force upon plaintiff in violation of plaintiff's 14<sup>th</sup> and 8<sup>th</sup> Amendment to the US Constitution. Doing so in his individual capacity and outside the scope of his duties.

36. RACETTE KNEW ABOUT THE HOSTILE, VOLUNTARY AND ASSAULTIVE NATURE OF HIS OFFICERS LONG STANDING ABUSE AND EXCESSIVE USE OF FORCE IN JUST THE TWO YEARS FROM 2010 TO 2012. IF RACETTE HAD ACTED ON THE NATURE OF HIS OFFICER'S BEHAVIOR FROM THE ~~END~~ 2010 INVESTIGATION ABOUT THE DEATH OF EIGHT INMATES. THE ATTACK ON INMATE CARRION IN APRIL 2011 THE NUMEROUS OTHER COMPLAINTS OF ASSAULTS BY OFFICERS THAT YEAR, PLAINTIFF COULD HAVE BEEN PROTECTED.
37. PLAINTIFF WAS THERE AND HOLDS NO DETAILS BUT THERE WERE AT LEAST 6 OFFICER ASSAULTS ON INMATES BETWEEN AUGUST ~~END~~ 2010 AND AUGUST 2011 AND RACETTE WAS THERE AT LEAST HALF THAT YEAR. PLAINTIFF'S ASSAULT AND SUBSEQUENT INJURY COULD HAVE BEEN AVOIDED IF RACETTE DID NOT STAND BY IDOL AND IGNORE THE OBVIOUS NEED TO TAKE ACTION THAT COULD PROTECT AGAINST INMATE ABUSE.

38. RACOTTE IS IN VIOLATION OF PLAINTIFFS 14TH DUE PROCESS AND EQUAL PROTECTION CLAUSE AND 8TH AMENDMENT (DELIBERATE INDIFERENCE) STANDARD TO THE U.S. CONSTITUTION. FAILING TO FOLLOW HIS OWN RULES AND REGULATIONS AND THIS FAILING TO PROTECT PLAINTIFF. THIS BEING DONE OUTSIDE THE SCOPE OF HIS DUTIES AND IN HIS INDIVIDUAL CAPACITY.

Compensation is demanded by the plaintiff in the amount of \$1,250,000 dollars enumerated as follows:

1. PUNITIVE DAMAGES IN THE AMOUNT OF \$20,000 DOLLARS FROM EACH INDIVIDUAL DEFENDANT IN HIS OR HER PERSONAL CAPACITY.
2. COMPENSATORY DAMAGES JOINTLY PAID TO THE PLAINTIFF IN AN EXACT AMOUNT EQUIVALENT TO THE ACTUAL COST OF THE ALBANY MEDICAL CENTER HOSPITAL BILL INCURRED BY THE NEW YORK TAX PAYERS AS A DIRECT RESULT OF THE DEFENDANTS ASSAULT AND USE OF EXCESSIVE FORCE AND SUBSEQUENT INJURIES PLAINTIFF SUFFERED ALL INCLUSIVE.

3. Monetary damages paid by T. DePalo in the amount of \$100,000 dollars.
4. Punitive damages paid by T. DePalo in the amount of \$30,000 dollars.
5. Punitive damages the equivalent of each of the defendants indemnification. Each officer is indemnified for no less than \$10,000 dollars probably more depending on rank, position and duration of employment. If the defendant holds no indemnification then the equivalent of the indemnification he or she did hold at some point shall be paid as a punitive damage.

Lance Carter

SEPTEMBER 9, 2012

9880249

NORTHERN DISTRICT NEW YORK  
UNITED STATES DISTRICT COURT

LANCE CARTER 98BD244

- AGAINST -

—CV—

Brockley, North, Anderson, Collins  
Depolo, Knott, Warren and Beale

STATE OF NEW YORK )  
COUNTY OF SENeca ) ss

AFFIDAVIT OF SERVICE

Lance Carter being duly sworn under pen-  
alty of perjury deposes and states:

1. I AM THE PLAINTIFF IN THE ABOVE ENTITLED ACTION  
AND I MAKE THIS AFFIDAVIT IN MY BEHALF.
2. I AM OVER THE AGE OF 18 AND RESIDE IN FIVE  
POINTS CORRECTIONAL FACILITY STATE HOUSE 94, P.O. BOX  
119, ROME N.Y. 134541

3. THAT ON OR AFTER THE NOTICED DATE I MAILED  
AN ORIGINAL AND ONE COPY OF THE WRITTEN CIVIL COMPLAINT  
TO:

Clerk of the Northern District  
Court  
Alexander Piersic Federal Bldg. 3rd Fl.  
10 Beaufort Street  
Under New York 13501

Along with ORIGINAL Copies of the Civil Cover Sheet,  
Application to Proceed without Full Payment of Fees,  
Inmate Authorization Form and a Monthly Statement  
of Finance, and Application for Order Directing  
Service by U.S. Marshall.

Served to before me  
this 10 day of November  
2012 Reish



Notary Public  
ANTHONY REISH, JR.  
Notary Public, State of New York  
Ontario Co. Reg. 01RE6216973  
Commission Expires 2/1/2014